

APPENDIX B

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Ds' Obj. No.	Pls.' SUF No.	Plaintiffs' Evidence; Defs.' Objections	Plaintiffs' Response
1	<i>Passim.</i> <i>See</i> Defs' Appendix A, ECF 508.	Exs. 1-8 [Pls.' Expert and Rebuttal Reports]. Inadmissible expert testimony. Fed. R. Evid. 702, 403; <i>see also Ask Chems., LP v. Comput. Packages, Inc.</i> , 593 F. App'x 510, 510 (6th Cir. 2014); <i>In re LIBOR-Based Fin. Instruments</i>	Admissible expert opinion. Fed. R. Evid. ¹ 702, 703.
2	28	Ex. 30 [Jones Dep.] at 34:21-36:6, 36:2-36:6. The cited testimony is inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: cited testimony contains no hearsay statements; based on Plaintiff's personal knowledge. 801; 602; 807.
3	42	Ex. 12 [Elza Dep.] at 152:7-156:3. The cited testimony is inadmissible for lack of foundation and personal knowledge. Fed. R. Evid. 602.	Statements based on Witness's personal knowledge (<i>see</i> Ex. 12 at 33:23-34:1; 100:6-8). 602; 807.
4, 5	61, 64	SUF 61: Ex. 20 [Cota Dep.] at 53:15-21; SUF 64: Ex. 20 [Cota Dep.] at 53:9-54:2. The cited testimony is inadmissible for lack of foundation and personal knowledge. Fed. R. Evid. 602.	Statements based on personal knowledge (<i>see</i> Ex. 20, 50:9-52:21); rationally based on employment-based perception. 602, 701; 807.
6	68	Ex. 11 [Parrish Dep.] at 476:9-478:12. The cited testimony purports to offer an expert opinion but the witness is not qualified as an expert witness. Fed. R. Evid. 701, 702.	Statements based on personal knowledge (<i>see</i> Ex. 11, 317:5-318:13; 476:8-10); rationally based on employment-based perception; not based on any scientific, technical, or other specialized knowledge. 602, 701, 702, 807.
7	75	Ex. 101 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: Admissible as generally known, readily verifiable. 201; 807.
8, 9	77, 102,	Ex. 102	Admissible reputation evidence; generally known within

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	103, 114, 156	Contains inadmissible hearsay. Fed. R. Evid. 802. Lack of personal knowledge. Fed. R. Evid. 602. Speculative. <i>See Simmerman v. Ace Bayou Corp.</i> , 2016 WL 109944 at *3 (E.D. Ky. Jan. 8. 2016) (“Speculative testimony is inadmissible for lay and expert witnesses alike.”).	jurisdiction; business record. 803(21); 201; 803(6); 807.
10	103	Ex. 189 Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	Not irrelevant. <i>See</i> Order Denying Defendants Bain Capital Private Equity, LP and Charlesbank Capital Partners, LLC’s Motion to Dismiss (“MTD Order”), Aug. 1, 2022, ECF No. 332 at PageID 7191-7192. <i>See also Oshana v. Coca-Cola Co.</i> , No. 04 C 3596, 2005 WL 1661999, at *5 (N.D. Ill. July 13, 2005) (“ <i>Oshana</i> ”) (a plaintiff “may use evidence before the statutory period to support her claims, [but] she may not rely on that evidence as constituting the violation giving rise to injury within the statutory period”). Also, party admission; business record. 801(d)(2)(A); 803(6); 807.
11	127	Ex. 165 at 5259. The cited testimony is inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: party manifests belief in truth of statements; business record. 801(d)(2)(B); 803(6); 807.
12	130	Ex. 173 Lack of personal knowledge Fed. R. Evid. 602. Speculative. <i>See Simmerman v. Ace Bayou Corp.</i> , 2016 WL 109944 at *3 (E.D. Ky. Jan. 8. 2016).	Statements based on personal knowledge; party admission; forwarded emails manifest belief in truth of statements; business record. 602; 801(d)(2)(A); 801(d)(2)(B); 803(6); 807.
13	131	Ex. 133 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: party admission. 801(d)(2)(A).
14	132	Ex. 201 Contains inadmissible hearsay. Fed. R.	Not hearsay: Varsity executives manifested belief statements were true. 801(d)(2)(B). Also, recorded

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		Evid. 802.	recollection; business record. 803(5), 803(6), 807.
15	133	Ex. 136 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: USASF executive manifested belief statements were true. 801(d)(2)(B). Also, gym owner statement is recorded recollection; business record. 803(5); 803(6); 807.
16	133, 134, 147, 157	Ex. 132 Lack of personal knowledge. Fed. R. Evid. 602. Speculative. <i>See Simmerman v. Ace Bayou Corp.</i> , 2016 WL 109944 at *3 (E.D. Ky. Jan. 8. 2016).	Webb statement: party admission; Fowlkes manifested belief in truth. 801(d)(2)(A) & (B). Fowlkes email: recorded recollection; party admission; based on personal knowledge. 803(5); 801(d)(2)(D); 602; 807.
17	137, 145, 146	Ex. 139 Contains inadmissible hearsay. Fed. R. Evid. 802. Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	Not hearsay: Varsity emails manifest belief in truth of IEP statements; party admission. 801(d)(2)(A), 801(d)(1)(B) Also, recorded recollection; business record. 803(5); 803(6); 807. Not irrelevant. <i>See</i> MTD Order at 7191-7192; <i>see also Oshana</i> , 2005 WL 1661999, at *5.
18	140	Ex. 190 Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	Not irrelevant. <i>See</i> MTD Order at 7191-7192; <i>see also Oshana</i> , 2005 WL 1661999, at *5.
19	140	Ex. 191 Irrelevant as it predates the limitations period. Fed. R. Evid. 401. Inadmissible under Fed. R. Evid. 401 and 403 as it relates to a non-voting seat on a USASF committee not at-issue in this case.	Not irrelevant. <i>See</i> MTD Order at 7191-7192; <i>see also Oshana</i> , 2005 WL 1661999, at *5. Relevant to Varsity control of USASF. 401; 402.
20	140	Ex. 200 Irrelevant as it relates to emergency procedures not at issue in this case. Fed. R. Evid. 401.	Relevant as decreased safety indicates decreased quality resulting from lack of competition. 401; 402; <i>Ohio v. Am. Express Co.</i> , 138 S. Ct. 2274, 2284 (2018).
21	142	Ex. 179	Not irrelevant. <i>See</i> MTD Order at 7191-7192; <i>see also Oshana</i> , 2005

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		Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	WL 1661999, at *5.
22, 23	142, 147	Ex. 180, 152 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: USASF VP (Ex. 180) and to Varsity executives (Ex. 152) manifested belief in truth of 3rd party email. 801(d)(2)(B). Also, business record. 803(6); 807.
24	148	Ex. 95 Contains inadmissible hearsay. Fed. R. Evid. 802. Violates the Best Evidence Rule. Fed. R. Evid. 1002.	Not hearsay: party admission. 801(d)(2)(D). Also, business record. 803(6); 807.
25	144	Ex. 183 Contains inadmissible hearsay under. Fed. R. Evid. 802. Irrelevant under Fed. R. Evid. 401.	Not hearsay: party admission. *03(d)(2)(A). Also business record. 803(6); 807.
26	144	Ex. 184 Contains inadmissible hearsay under. Fed. R. Evid. 802.	Not hearsay: party admission. 801(d)(2)(A), 801(d)(2)(D). Also, business record. 803(6); 807.
27	144	Ex. 185 Contains inadmissible hearsay under. Fed. R. Evid. 802.	Not hearsay: forwarded by former USASF Treasurer and Board member to USASF VP with manifestations that she believed it to be true. 801(d)(2)(B) & (D). Also, business record. 803(6); 807.
28	145, 146	Ex. 187 Contains inadmissible hearsay. Fed. R. Evid. 802. Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	Admissible business record. 803(6); 807. Not irrelevant. See MTD Order at PageID 7191-7192; <i>see also Oshana</i> , 2005 WL 1661999, at *5.
29	146	Ex. 186 Contains inadmissible hearsay. Fed. R. Evid. 802. Irrelevant as it predates the limitations period. Fed. R. Evid. 401.	Not hearsay: forwarded among USASF executives with manifestations of belief in truth. 801(d)(2)(B). Also, business record. 803(6); 807.
30	147	Ex. 63 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: USASF VP responded manifesting belief in truth. 801(d)(2)(B). Also, business record. 803(6); 807.
31	147	Ex. 131	Not hearsay: USASF VP

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		Contains inadmissible hearsay. Fed. R. Evid. 802.	forwarded to Varsity manifesting belief in truth. 801(d)(2)(B). Also, business record. 803(6); 807.
32	147	Ex. 137 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: USASF VP forwarded to Varsity manifesting belief in truth. 801(d)(2)(B). Also, business record. 803(6); 807.
33	147	Ex. 196 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: USASF VP forwarded to Varsity manifesting belief in truth. 801(d)(2)(B). Also, business record. 803(6); 807.
34	147	Ex. 199 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: party admission and manifestation of belief in truth of Webb statement. 801(d)(2)(D), 801(d)(2)(B). Also, business record. 803(6); 807.
35	160	Ex. 214 Contains inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: party admission. 801(d)(2)(D). Witness demonstrated personal knowledge (<i>see</i> Ex. 12 at 281:17-282:10). 602; 807.
36	183	Ex. 12 [Elza Dep.] at 281:23-282:10. The cited testimony is inadmissible for lack of foundation and personal knowledge. Fed. R. Evid. 602.	Witness demonstrated personal knowledge. 602; 807.
37	189	Ex. 12 [Elza Dep.] at 57:2-17. The cited testimony is inadmissible hearsay. Fed. R. Evid. 802.	Not hearsay: forwarded by Varsity executives manifesting belief in truth. 801(d)(2)(B). Also, business record; personal knowledge. 602; 803(6); 807.
38	215	Ex. 4 [Heeb Reb.] at ¶¶ 330-339 & n.392. The cited excerpt is inadmissible hearsay. Fed. R. Evid. 802.	Admissible expert opinion. Fed. R. Evid. ² 702, 703.
39	215	Ex. 76 at 7771-78. Contains inadmissible hearsay and lacks foundation. Fed. R. Evid. 802, 602.	Cited testimony contains no hearsay; based on Plaintiff's personal knowledge. 801(c); 602; 807.

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Respectfully submitted,

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